

NATHAN WOOD SOMMERS & LIPPMAN

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELORS

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DEC 1 '97

1-37 PM

WRITER'S DIRECT DIAL NUMBER

713.892.4831

WRITER'S TELECOPY NUMBER

713.960.1238

November 25, 1997

Vernon A. Williams  
Surface Transportation Board  
1925 K Street, N.W.  
Suite 700  
Washington, D.C. 20423

Re: Documents for Recordation

Dear Mr. Williams:

I have enclosed an original and one copy of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

The document is a security agreement dated as of November 15, 1997 (the "Security Agreement"), and is a primary document.

The names and addresses of the parties to the Security Agreement are as follows:

Secured Party:

Southwest Bank of Texas, N.A.  
4400 Post Oak Parkway 4th Floor  
Houston, Texas 77027

Debtor:

Rail Car Operators, Ltd.  
One Riverway, Suite 1010  
Houston, Texas 77056

A description of the equipment covered by the Security Agreement is as follows:

(a) 49 rail cars, specifically,

(i) fifteen (15) 23,500 gallon general purpose rail cars, stencil numbers TEIX 23515, TEIX 23516, TEIX 23518,

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TEIX 23519, TEIX 23520, TEIX 23521, TEIX 23523,  
TEIX 23524, TEIX 23548, TEIX 2914, TEIX 2915, TEIX 2916,  
TEIX 2717, TEIX 2918, TEIX 3018;

(ii) ten (10) tank and pressure rail cars, stencil numbers TEIX2302, TEIX 2309, TEIX 2312, TEIX 2315, TEIX 2322, TEIX 2324, TEIX 30014, TEIX 30015, TEIX 30016, TEIX 30017;

(iii) one (1) 30,000 gallon tank rail car, stencil number TEIX 30046;

(iv) five (5) 33,600 gallon pressurized tank rail cars, stencil numbers TEIX 33520, TEIX 33521, TEIX 33522, TEIX 33523, TEIX 33524;

(v) two (2) lined hopper rail cars, stencil numbers TEIX 58145, TEIX 58147;

(vi) six (6) tank cars, stencil numbers TEIX 34062, TEIX 34065, TEIX 34066, TEIX 34067, TEIX 34070, TEIX 34071; and

(vii) ten (10) hopper rail cars, stencil numbers TEIX 58259, TEIX 58260, TEIX 58261, TEIX 58262, TEIX 58263, TEIX 58264, TEIX 58265, TEIX 58266, TEIX 58267, TEIX 58268;

(b) all appurtenances and additions thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith, and all products and proceeds thereof (including insurance proceeds).

A short summary of the Security Agreement to appear in the index is as follows:

Security Agreement dated as of November 15, 1997, between Southwest Bank of Texas, N.A., a national banking association, 4400 Post Oak Parkway, Houston, Texas 77027 ("Secured Party") and Rail Car Operators, Ltd., a Texas limited partnership, One Riverway, Suite 1010, Houston, Texas 77056 ("Debtor"), and covering 49 railroad cars, specifically: fifteen (15) 23,500 gallon general purpose rail cars, stencil numbers TEIX 23515, TEIX 23516, TEIX 23518, TEIX 23519, TEIX 23520, TEIX 23521, TEIX 23523, TEIX 23524, TEIX 23548, TEIX 2914, TEIX 2915, TEIX 2916, TEIX 2717, TEIX 2918, TEIX 3018; ten (10) tank and pressure rail cars, stencil numbers TEIX2302, TEIX 2309, TEIX 2312, TEIX 2315, TEIX 2322, TEIX 2324, TEIX 30014, TEIX 30015, TEIX 30016, TEIX 30017; one (1) 30,000 gallon tank rail car, stencil number TEIX 30046; five (5) 33,600 gallon pressurized tank rail cars,

stencil numbers TEIX 33520, TEIX 33521, TEIX 33522, TEIX 33523, TEIX 33524; two (2) lined hopper rail cars, stencil numbers TEIX 58145, TEIX 58147; six (6) tank cars, stencil numbers TEIX 34062, TEIX 34065, TEIX 34066, TEIX 34067, TEIX 34070, TEIX 34071; ten (10) hopper rail cars, stencil numbers TEIX 58259, TEIX 58260, TEIX 58261, TEIX 58262, TEIX 58263, TEIX 58264, TEIX 58265, TEIX 58266, TEIX 58267, TEIX 58268; and all appurtenances and additions thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith, and all products and proceeds thereof (including insurance proceeds).

A fee of \$24.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to me.

Very truly yours,

NATHAN WOOD SOMMERS & LIPPMAN

  
Amy Stryker

DEC 1 '97

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## SECURITY AGREEMENT

COPY

THIS SECURITY AGREEMENT dated as of November 15, 1997 (this "Agreement"), is by and between RAIL CAR OPERATORS, LTD., a Texas limited partnership (the "Debtor"), and SOUTHWEST BANK OF TEXAS, N.A., a national banking association ("Secured Party").

R E C I T A L S:

A. R.H. Investments, Inc., a Texas corporation ("RH"), Bravida Corporation, a Texas corporation ("Bravida"), Bishop 1996 Grandchildren's Trust, a trust created under the laws of the State of Texas ("Bishop Trust"), and Gemsbok Inc., a Texas corporation ("Gemsbok" and together with RH, Bravida and Bishop Trust, the "Borrowers") and Secured Party have entered into that certain Loan Agreement of even date herewith (such Loan Agreement, as the same may be amended or modified from time to time, is referred to herein as the "Loan Agreement").

B. Debtor has entered into that certain Guaranty Agreement of even date herewith (such Guaranty Agreement, as the same may be amended or modified from time to time, is referred to herein as the "Guaranty Agreement") for the benefit of Secured Party pursuant to which, and subject to the terms and conditions thereof, Debtor has guaranteed to Secured Party the obligations of Borrowers under the Loan Agreement.

C. Secured Party has conditioned its obligations under the Loan Agreement upon, among other things, the execution and delivery of this Agreement by Debtor.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## ARTICLE I

Security Interest

Section 1.01. Security Interest. Debtor hereby grants to Secured Party a security interest in the following property, whether now owned or existing or hereafter arising or acquired and wherever arising or located (such property being hereinafter sometimes called the "Collateral"):

(a) 49 rail cars, specifically,

(i) fifteen (15) 23,500 gallon general purpose rail cars, stencil numbers TEIX 23515, TEIX 23516, TEIX 23518, TEIX 23519, TEIX 23520, TEIX 23521, TEIX 23523, TEIX 23524, TEIX 23548, TEIX 2914, TEIX 2915, TEIX 2916, TEIX 2717, TEIX 2918, TEIX 3018;

(ii) ten (10) tank and pressure rail cars, stencil numbers TEIX 2302, TEIX 2309, TEIX 2312, TEIX 2315, TEIX 2322, TEIX 2324, TEIX 30014, TEIX 30015, TEIX 30016, TEIX 30017;

(iii) one (1) 30,000 gallon tank rail car, stencil number TEIX 30046;

(iv) five (5) 33,600 gallon pressurized tank rail cars, stencil numbers TEIX 33520, TEIX 33521, TEIX 33522, TEIX 33523, TEIX 33524;

(v) two (2) lined hopper rail cars, stencil numbers TEIX 58145, TEIX 58147;

(vi) six (6) tank cars, stencil numbers TEIX 34062, TEIX 34065, TEIX 34066, TEIX 34067, TEIX 34070, TEIX 34071; and

(vii) ten (10) hopper rail cars, stencil numbers TEIX 58259, TEIX 58260, TEIX 58261, TEIX 58262, TEIX 58263, TEIX 58264, TEIX 58265, TEIX 58266, TEIX 58267, TEIX 58268;

(b) all appurtenances and additions thereto and substitutions and replacements therefor, wheresoever located, including all tools, parts and accessories used in connection therewith, and all products and proceeds thereof (including insurance proceeds); and

(c) all of Debtor's right, title and interest in and to, but not Debtor's obligations under, the Management Agreement dated October 1, 1996 between Transportation Equipment, Inc., a Texas corporation ("TEI") and Debtor (the "Management Agreement").

Section 1.02. Obligations. The Collateral shall secure the following obligations, indebtedness, and liabilities (all such obligations, indebtedness, and liabilities being hereinafter sometimes called the "Obligations"):

(a) the obligations and indebtedness of RH to Secured Party evidenced by that certain promissory note in the original principal amount of \$599,210.59, dated November 15, 1997, executed by RH and payable to the order of Secured Party;

(b) the obligations and indebtedness of Bravida to Secured Party evidenced by that certain promissory note in the original principal amount of \$599,210.59, dated November 15, 1997, executed by Bravida and payable to the order of Secured Party;

(c) the obligations and indebtedness of Bishop Trust to Secured Party evidenced by that certain promissory note in the original principal amount of \$335,965.83, dated November 15,

1997, executed by Bishop Trust and payable to the order of Secured Party;

(d) the obligations and indebtedness of Gemsbok to Secured Party evidenced by that certain promissory note in the original principal amount of \$117,143.83, dated November 15, 1997, executed by Gemsbok and payable to the order of Secured Party;

(e) the obligations and indebtedness of Borrowers to Secured Party under the Loan Agreement;

(f) the obligations and indebtedness of Debtor to Secured Party under the Guaranty Agreement;

(g) all future advances by Secured Party to Borrowers or any Borrower;

(h) all costs and expenses, including, without limitation, all attorneys' fees and legal expenses, incurred by Secured Party to preserve and maintain the Collateral, collect the obligations herein described, and enforce this Agreement;

(i) all other obligations, indebtedness, and liabilities of Borrowers or any Borrower to Secured Party, now existing or hereafter arising, regardless of whether such obligations, indebtedness, and liabilities are similar, dissimilar, related, unrelated, direct, indirect, fixed, contingent, primary, secondary, joint, several, or joint and several; and

(j) all extensions, renewals, and modifications of any of the foregoing.

## ARTICLE II

### Representations and Warranties

To induce Secured Party to enter into this Agreement and the Loan Agreement, Debtor represents and warrants to Secured Party that:

Section 2.01. Title. Except for the security interest granted herein, Debtor owns, and with respect to Collateral acquired after the date hereof Debtor will own, the Collateral free and clear of any lien, security interest, or other encumbrance.

Section 2.02. Financing Statements. No financing statement, security agreement, or other lien instrument covering all or any part of the Collateral is on file in any public office, except as may have been filed in favor of Secured Party.

Section 2.03. Organization and Authority; No Conflict; Enforceability. Debtor is a limited partnership duly organized and

validly existing under the laws of the state of Texas. Debtor has the power and authority to execute, deliver, and perform this Agreement and the other Loan Documents to which it is a party, and the execution, delivery, and performance of this Agreement and such Loan Documents by Debtor have been authorized by all necessary action on the part of Debtor and its partners and do not and will not violate any law, rule, or regulation or the partnership agreement of Debtor and do not and will not conflict with, result in a breach of, or constitute a default under the provisions of any indenture, mortgage, deed of trust, security agreement, or other instrument or agreement pursuant to which Debtor or any of its property is bound. The approval and authorization of the Surface Transportation Board of the Department of Transportation, the Association of American Railroads, the Interstate Commerce Commission or any other entity is not needed for the execution, delivery, and performance of this Agreement and the other Loan Documents to which Debtor is a party. This Agreement and the other Loan Documents to which Debtor is a party constitute legal, valid and binding obligations of Debtor, enforceable against Debtor in accordance with their terms except to the extent such enforceability may be limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditor's rights.

Section 2.04. Principal Place of Business. The principal place of business and chief executive office of Debtor, and the office where Debtor keeps its books and records, is located at the address of Debtor listed in the Loan Agreement.

Section 2.05. Litigation. There is no litigation, investigation, complaint filed with the Surface Transportation Board of the Department of Transportation, the Interstate Commerce Commission, the Association of American Railroads or other governmental proceeding pending or threatened against Debtor, the Collateral, or any of Debtor's other properties which if adversely determined would have a material adverse effect on the Collateral or the financial condition, operations, or business of Debtor.

Section 2.06. Substantial Benefit to Debtor. The value of the consideration received and to be received by Debtor as a result of Borrowers and Secured Party entering into the Loan Agreement and Debtor executing and delivering this Agreement is reasonably worth at least as much as the liability and obligation, of Debtor hereunder, and such liability and obligation, and the Loan Agreement have substantially benefitted and may reasonably be expected to substantially benefit Debtor directly and indirectly.

Section 2.07. Representations in Loan Agreement. Each of the representations and warranties made by Borrowers in the Loan Agreement with respect to Debtor is true and correct and Secured Party may rely on such representations and warranties as if they had been made by Debtor.

Section 2.08. Management Agreement. Neither Debtor nor TEI is in default of its obligations under the terms and conditions of the Management Agreement. The Management Agreement is in full force and effect.

### ARTICLE III

#### Covenants

Debtor covenants and agrees with Secured Party that until the Obligations are paid and performed in full:

Section 3.01. Maintenance. Debtor shall maintain the Collateral in good operating condition and repair and shall not permit any waste or destruction of the Collateral or any part thereof. Debtor shall not use or permit the Collateral to be used in violation of any law or inconsistently with the terms of any policy of insurance. Debtor shall not use or permit the Collateral to be used in any manner or for any purpose that would impair the value of the Collateral or expose the Collateral to unusual risk.

Section 3.02. Encumbrances. Debtor shall not create, permit, or suffer to exist, and shall defend the Collateral against, any lien, security interest, or other encumbrance on the Collateral except the security interest of Secured Party hereunder, and shall defend Debtor's rights in the Collateral and Secured Party's security interest in the Collateral against the claims of all persons and entities.

Section 3.03. Modification of Collateral. Debtor shall not modify the Collateral.

Section 3.04. Disposition of Collateral. Debtor shall not sell, lease, transfer or otherwise dispose of the Collateral or any part thereof.

Section 3.05. Further Assurances. At any time and from time to time, upon the request of Secured Party, and at the sole expense of Debtor, Debtor shall promptly execute and deliver all such further instruments and documents and take such further action as Secured Party may deem necessary or desirable to preserve and perfect its security interest in the Collateral and carry out the provisions and purposes of this Agreement, including, without limitation, the execution and filing of such financing statements as Secured Party may require. A carbon, photographic, or other reproduction of this Agreement or of any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement and may be filed as a financing statement. Debtor shall promptly endorse and deliver to Secured Party all documents, instruments, and chattel paper that it now owns or may hereafter acquire which constitute Collateral or relate to the Collateral.



Section 3.06. Risk of Loss; Insurance. Debtor shall be responsible for any loss of or damage to the Collateral. Debtor shall maintain, with financially sound and reputable companies, insurance policies (a) insuring the Collateral against loss by fire, explosion, theft, and such other risks and casualties as are customarily insured against by companies engaged in the same or a similar business, and (b) insuring Debtor and Secured Party against liability for personal injury and property damage relating to the Collateral, such policies to be in such amounts and covering such risks as are customarily insured against by companies engaged in the same or a similar business, with losses payable to Debtor and Secured Party as their respective interests may appear. All insurance with respect to the Collateral shall provide that no cancellation, reduction in amount, or change in coverage thereof shall be effective unless Secured Party has received thirty (30) days prior written notice thereof. Debtor shall deliver to Secured Party copies of all insurance policies covering the Collateral or any part thereof.

Section 3.07. Inspection. Debtor shall permit Secured Party and its representatives to examine or inspect the Collateral wherever located and to examine, inspect and copy Debtor's books and records at any reasonable time and as often as Secured Party may desire.

Section 3.08. Taxes. Debtor agrees to pay or discharge prior to delinquency all taxes, assessments, levies, and other governmental charges imposed on it or its property, except Debtor shall not be required to pay or discharge any tax, assessment, levy, or other governmental charge if (a) the amount or validity thereof is being contested by Debtor in good faith by appropriate proceedings diligently pursued, (b) such proceedings do not involve any risk of sale, forfeiture, or loss of the Collateral or any interest therein, and (c) adequate reserves therefor have been established in conformity with generally accepted accounting principles.

Section 3.09. Notification. Debtor shall promptly notify Secured Party of (a) any lien, security interest, encumbrance, or claim made or threatened against the Collateral, (b) any material change in the Collateral, including, without limitation, any material damage to or loss of the Collateral, (c) the occurrence or existence of any Event of Default (hereinafter defined) or the occurrence or existence of any condition or event that, with the giving of notice or lapse of time or both, would be an Event of Default, and (d) any complaint filed or investigation commenced by or with the Surface Transportation Board of the Department of Transportation, the Interstate Commerce Commission, or the Association of American Railroads.

Section 3.10. Corporate Changes. Debtor shall not change its name, identity, or corporate structure in any manner that might make any financing statement filed in connection with this Agreement misleading. Debtor shall not change its principal place

of business, chief executive office, or the place where it keeps its books and records unless it shall have given Secured Party thirty (30) days prior written notice thereof and shall have taken all action deemed necessary or desirable by Secured Party to cause its security interest in the Collateral to be perfected with the priority required by this Agreement.

Section 3.11. Books and Records Information. Debtor shall keep accurate and complete books and records of the Collateral and Debtor's business and financial condition in accordance with generally accepted accounting principles consistently applied. Debtor shall from time to time at the request of Secured Party deliver to Secured Party such information regarding the Collateral and Debtor as Secured Party may request, including, without limitation, lists and descriptions of the Collateral and evidence of the identity and existence of the Collateral. Debtor shall mark its books and records to reflect the security interest of Secured Party under this Agreement.

Section 3.12. Compliance with Agreements. Debtor shall comply in all material respects with all mortgages, deeds of trust, instruments, and other agreements binding on it or affecting its properties or business.

Section 3.13. Compliance with Laws. Debtor shall comply with 49 USCS §§ 10101 et seq., and all applicable laws, rules, regulations, and orders of any court or governmental authority, including but not limited to the Surface Transportation Board of the Department of Transportation, the Interstate Commerce Commission and the Association of American Railroads.

Section 3.14. Covenants Contained in the Loan Agreement. Debtor will comply with all the covenants contained in the Loan Agreement with which Borrowers agree in the Loan Agreement to cause Debtor to comply.

Section 3.15. Modification of Management Agreement. Debtor shall not change, modify or amend or agree to change, modify or amend the Management Agreement.

## ARTICLE IV

### Rights of Secured Party

Section 4.01. Power of Attorney. Debtor hereby irrevocably constitutes and appoints Secured Party and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the name of Debtor or in its own name, upon the occurrence of an Event of Default, to take any and all action and to execute any and all documents and instruments which Secured Party at any time and from time to time deems necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of

the foregoing, Debtor hereby gives Secured Party the power and right on behalf of Debtor and in its own name to do any of the following, without notice to or the consent of Debtor:

(a) to demand, sue for, collect, or receive in the name of Debtor or in its own name, any money or property at any time payable or receivable on account of or in exchange for any of the Collateral and, in connection therewith, endorse checks, notes, drafts, acceptances, money orders, documents of title, or any other instruments for the payment of money under the Collateral or any policy of insurance;

(b) to pay or discharge taxes, liens, security interests, or other encumbrances levied or placed on or threatened against the Collateral;

(c) to notify post office authorities to change the address for delivery of mail of Debtor to an address designated by Secured Party and to receive, open, and dispose of mail addressed to Debtor; and

(d) (i) to direct account debtors and any other parties liable for any payment under any of the Collateral to make payment of any and all monies due and to become due thereunder directly to Secured Party or as Secured Party shall direct; (ii) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Collateral; (iii) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, proxies, stock powers, verifications, and notices in connection with accounts and other documents relating to the Collateral; (iv) to exchange any of the Collateral for other property upon any merger, consolidation, reorganization, recapitalization, or other readjustment of the issuer thereof and, in connection therewith, deposit any of the Collateral with any committee, depository, transfer agent, registrar, or other designated agency upon such terms as Secured Party may determine; (v) to insure, and to make, settle, compromise, or adjust claims under any insurance policy covering, any of the Collateral; and (vi) to sell, transfer, pledge, make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Secured Party were the absolute owner thereof for all purposes, and to do, at Secured Party's option and Debtor's expense, at any time, or from time to time, all acts and things which Secured Party deems necessary to protect, preserve, or realize upon the Collateral and Secured Party's security interest therein.

This power of attorney is a power coupled with an interest and shall be irrevocable. Secured Party shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges, and options expressly or implicitly granted to Secured Party in this Agreement, and shall not be liable for any failure to

do so or any delay in doing so. Secured Party shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or in its capacity as attorney-in-fact except acts or omissions resulting from its willful misconduct. This power of attorney is conferred on Secured Party to protect, preserve, and realize upon its security interest in the Collateral. Secured Party shall not be responsible for any decline in the value of the Collateral and shall not be required to take any steps to preserve rights against prior parties or to protect, preserve, or maintain any security interest or lien given to secure the Collateral.

Section 4.02. Performance by Secured Party. If Debtor fails to perform or comply with any of its agreements contained herein, Secured Party itself may, at its sole discretion, cause or attempt to cause performance or compliance with such agreement and the expenses of Secured Party, together with interest thereon at the Maximum Rate (as defined in the Loan Agreement), shall be payable by Debtor to Secured Party on demand and shall constitute Obligations secured by this Agreement. Notwithstanding the foregoing, it is expressly agreed that Secured Party shall not have any liability or responsibility for the performance of any obligation of Debtor under this Agreement.

Section 4.03. Setoff; Property Held by Secured Party. After the occurrence of an Event of Default, Secured Party shall have the right to set off and apply against the Obligations in such manner as Secured Party may determine, at any time and without notice to Debtor, any and all deposits (general or special, time or demand, provisional or final) or other sums at any time credited by or owing from Secured Party to Debtor whether or not the Obligations are then due. As additional security for the Obligations, Debtor hereby grants Secured Party a security interest in all money, instruments, and other property of Debtor now or hereafter held by Secured Party. In addition to Secured Party's right of setoff and as further security for the Obligations, Debtor hereby grants Secured Party a security interest in all deposits (general or special, time or demand, provisional or final) of Debtor now or hereafter on deposit with or held by Secured Party and all other sums at any time credited by or owing from Secured Party to Debtor. The rights and remedies of Secured Party hereunder are in addition to other rights and remedies (including, without limitation, other rights of setoff) which Secured Party may have.

Section 4.04. Assignment by Secured Party. Secured Party may from time to time assign the Obligations and any portion thereof and the Collateral or any portion thereof, and the assignee shall be entitled to all of the rights and remedies of Secured Party under this Agreement in relation thereto.

## ARTICLE V

### Default

Section 5.01. Events of Default. The term "Event of Default" shall mean an Event of Default as defined in the Loan Agreement.

Section 5.02. Rights and Remedies. Upon the occurrence of an Event of Default, Secured Party shall have the following rights and remedies:

(a) Secured Party may declare the Obligations or any part thereof immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Debtor; provided, however, that upon the occurrence of an Event of Default under Section 13.01(d) or Section 13.01(e) of the Loan Agreement, the Obligations shall become immediately due and payable without notice, demand, presentment, notice of dishonor, notice of acceleration, notice of intent to accelerate, notice of intent to demand, protest, or other formalities of any kind, all of which are hereby expressly waived by Debtor.

(b) In addition to all other rights and remedies granted to Secured Party in this Agreement and in any other instrument or agreement securing, evidencing, or relating to the Obligations or any part thereof, Secured Party shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted by the State of Texas. Without limiting the generality of the foregoing, Secured Party may (i) without demand or notice to Borrower or Debtor, collect, receive, or take possession of the Collateral or any part thereof and for that purpose Secured Party may enter upon any premises on which the Collateral is located and remove the Collateral therefrom or render it inoperable, and/or (ii) sell, lease, or otherwise dispose of the Collateral, or any part thereof, in one or more parcels at public or private sale or sales, at Secured Party's offices or elsewhere, for cash, on credit, or for future delivery. Upon the request of Secured Party, Debtor shall assemble the Collateral and make it available to Secured Party at any place designated by Secured Party that is reasonably convenient to Debtor and Secured Party. Debtor agrees that Secured Party shall not be obligated to give more than five (5) days written notice of the time and place of any public sale or of the time after which any private sale may take place and that such notice shall constitute reasonable notice of such matters. Debtor shall be liable for all expenses of retaking, holding, preparing for sale, or the like, and all attorneys' fees, legal expenses, and all other expenses incurred by Secured Party in connection with the collection of the Obligations and the enforcement of Secured Party's rights under this

Agreement. Secured Party may apply the Collateral against the Obligations in such order and manner as Secured Party may elect in its sole discretion. Debtor waives all rights of marshalling in respect of the Collateral.

(c) Secured Party reserves all rights and remedies available to Secured Party under 49 USCS §§ 10101 et seq, and all other rights and remedies available to Secured Party through the Association of American Railroads, the Interstate Commerce Commission and any other governmental authority having jurisdiction over the Collateral.

(d) Secured Party may cause any or all of the Collateral held by it to be transferred into the name of Secured Party or the name or names of Secured Party's nominee or nominees.

NOTWITHSTANDING THE FOREGOING, IF AN EVENT OF DEFAULT HAS OCCURRED, SECURED PARTY WILL NOT COMMENCE ANY ACTION TO FORECLOSE UPON THE COLLATERAL CONSISTING OF RAIL CARS FOR A PERIOD OF SIXTY (60) DAYS FOLLOWING THE DATE ON WHICH SECURED PARTY GIVES DEBTOR NOTICE THAT SUCH EVENT OF DEFAULT HAS OCCURRED.

## ARTICLE VI

### Miscellaneous

Section 6.01. Expenses. Debtor agrees to pay on demand all costs and expenses incurred by Secured Party in connection with the preparation, negotiation, execution and enforcement of this Agreement and any and all amendments, modifications, and supplements hereto.

Section 6.02. No Waiver; Cumulative Remedies. No failure on the part of Secured Party to exercise and no delay in exercising, and no course of dealing with respect to, any right, power, or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The rights and remedies provided for in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

Section 6.03. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Debtor and Secured Party and their respective heirs, successors, and assigns, except that Debtor may not assign any of its rights or obligations under this Agreement without the prior written consent of Secured Party.

Section 6.04. AMENDMENT ENTIRE AGREEMENT. THIS AGREEMENT AND THE LOAN DOCUMENTS (AS DEFINED IN THE LOAN AGREEMENT) EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES HERETO AND SUPERSEDE ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT

MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES HERETO. THE PROVISIONS OF THIS AGREEMENT MAY BE AMENDED OR WAIVED ONLY BY AN INSTRUMENT IN WRITING SIGNED BY THE PARTIES HERETO.

Section 6.05. Notices. All notices and other communications provided for in this Agreement shall be given as provided in the Loan Agreement.

Section 6.06. Applicable Law Venue; Service of Process. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the applicable laws of the United States of America. This Agreement has been entered into in Harris County, Texas, and it shall be performable for all purposes in Harris County, Texas. Except as provided in the Arbitration Agreement (as defined in the Loan Agreement), any action or proceeding against Debtor under or in connection with this Agreement or any other Loan Document (as defined in the Loan Agreement), including the Guaranty Agreement, may be brought in any state or federal court in Harris County, Texas, and Debtor hereby irrevocably submits to the nonexclusive jurisdiction of such courts and waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court in an inconvenient forum. Except as provided in the Arbitration Agreement, nothing in this Agreement or any other Loan Document shall affect the right of Secured Party to serve process in any other manner permitted by law or shall limit the right of Secured Party to bring any action or proceeding against Debtor or with respect to any of the Collateral in any state or federal court in any other jurisdiction. Except as provided in the Arbitration Agreement, any action or proceeding by Debtor against Secured Party shall be brought only in a court located in Harris County, Texas.

Section 6.07. Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

Section 6.08. Survival of Representations and Warranties. All representations and warranties made in this Agreement or in any certificate delivered pursuant hereto shall survive the execution and delivery of this Agreement, and no investigation by Secured Party shall affect the representations and warranties or the right of Secured Party to rely upon them.

Section 6.09. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 6.10. Waiver of Bond. In the event Secured Party seeks to take possession of any or all of the Collateral by

judicial process, Debtor hereby irrevocably waives any bonds and any surety or security relating thereto that may be required by applicable law as an incident to such possession, and waives any demand for possession prior to the commencement of any such suit or action.

Section 6.11. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

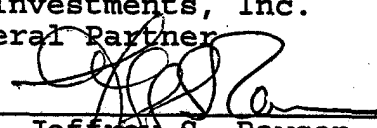
Section 6.12. Obligations Absolute. The obligations of Debtor under this Agreement shall be absolute and unconditional and, except upon payment of the Obligations in full, shall not be released, discharged, reduced, or in any way impaired by any circumstance whatsoever, including, without limitation, any amendment, modification, extension, or renewal of this Agreement, the Obligations, or any document or instrument evidencing, securing, or otherwise relating to the Obligations, or any release or subordination of collateral, or any waiver, consent, extension, indulgence, compromise, settlement, or other action or inaction in respect of this Agreement, the Obligations, or any document or instrument evidencing, securing, or otherwise relating to the Obligations, or any exercise or failure to exercise any right, remedy, power, or privilege in respect of the Obligations.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first written above.

DEBTOR:

RAIL CAR OPERATORS, LTD.

By: RH Investments, Inc.  
General Partner

By:   
Jeffrey S. Rawson  
President



By: Bravida Corporation  
General Partner

By: N. Gerald Beard  
N. Gerald Beard  
President

By: Gemsbok, Inc.  
General Partner

By: Ronald P. Cuenod, Jr.  
Ronald P. Cuenod, Jr.  
President

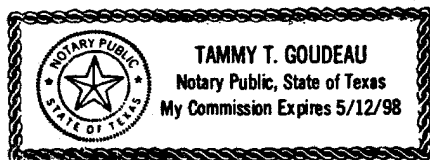
SECURED PARTY:

SOUTHWEST BANK OF TEXAS, N.A.

By: C. Billings  
Carmen Billings  
Vice President

STATE OF TEXAS       §  
                              §  
COUNTY OF HARRIS   §

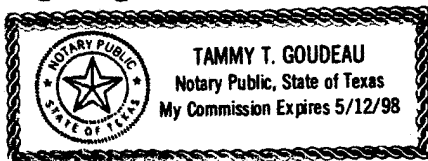
On this 20th day of November, 1997, this instrument was acknowledged before me by Jeffrey S. Rawson as President of RH Investments, Inc., a Texas corporation, in its capacity as general partner of Rail car Operators, Ltd., on behalf of such corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



*Tammy T. Goudeau*  
Notary Public, State of Texas

STATE OF TEXAS       §  
                              §  
COUNTY OF HARRIS   §

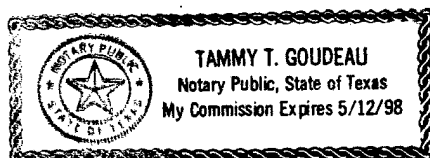
On this 24th day of November, 1997, this instrument was acknowledged before me by Ronald P. Cuenod, Jr. as President of Gembok, Inc., a Texas corporation, in its capacity as general partner of Rail Car Operators, Ltd., a Texas limited partnership, on behalf of such corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



*Tammy T. Goudeau*  
Notary Public, State of Texas

STATE OF TEXAS       §  
                              §  
COUNTY OF HARRIS   §

On this 26th day of November, 1997, this instrument was acknowledged before me by N. Gerald Beard as President of Bravida Corporation, a Texas corporation, in its capacity as general partner of Rail Car Operators, Ltd., a Texas Limited Partnership, on behalf of such corporation by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

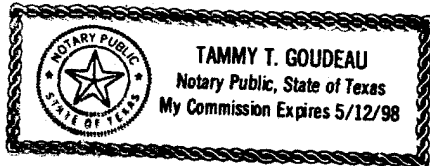


*Tammy T. Goudeau*  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

On this 24th day of November, 1997, this instrument was acknowledged before me by Carmen Billings as Vice President of Southwest Bank of Texas, N.A., a national association, on behalf of such association by authority of its Board of Directors, and (s)he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

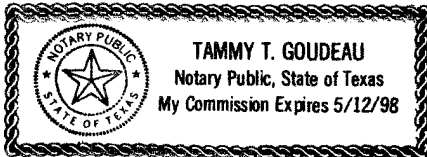
Tammy T. Goudeau  
Notary Public, State of Texas



CERTIFICATE OF AUTHENTICITY

STATE OF TEXAS       §  
                              §  
COUNTY OF HARRIS   §

As notary public for the State of Texas, I certify that I have compared the copy of the Security Agreement with the original and have found the copy to be complete and identical in all respects to the original document.



*Tammy T. Goudeau*  
Notary Public, State of Texas